MONTANA LEGISLATIVE HISTORY

Chapter 330 19 85

Bill H 713 S _____ Original bill & history ✓ C

H. Committee on State Administration			S. Committee on Judiciary		
Hearing Date(s)	Feb 18	✓ C	Hearing Date(s)	Mar 19	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Feb 18	✓ C		Mar 19	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 713

INTRODUCED BY [signatures]

A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFICALLY INCLUDE VOLUNTEER FIREFIGHTERS AND OFFICERS OF A NONPROFIT VOLUNTEER FIRE COMPANY IN THE "GOOD SAMARITAN" LIMITS ON LIABILITY; AMENDING SECTION 27-1-714, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-714, MCA, is amended to read:

"27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1) Any person licensed as a physician and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company, or any other person who in good faith renders emergency care or assistance without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care or assistance.

(2) Subsection (1) includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as any reimbursement received for such volunteer services does not exceed 25% of his gross annual income.

(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, such refusal does not constitute gross negligence or a willful or wanton act or omission."

-End-

INTRODUCED BILL
HB 713

LC 1288/01

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

Forty-Ninth LEGISLATIVE SESSION

COMMITTEE ON State Administration

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 645	2/4	2/15	2/15		2/15				
632	2/1	2/18	2/18	2/18					
650	2/4	2/12	2/12			2/12			
655	2/4	2/15	2/15			2/15			
675	2/6	2/15	2/15			2/15			
678	2/6	2/15	TABLES						
702	2/7	2/18	2/18	2/18					
705	2/7	2/18	2/18	2/18					
709	2/7	2/18	2/18		2/18				
713	2/7	2/18	2/18	2/18					
724	2/8	2/13	2/13	2/13					
725	2/8	2/11	2/11	2/11					
732	2/8	2/13	2/13	2/13					
721	2/8	2/15	2/15		2/15				
739	2/8	2/19	2/19			2/19			
747	2/8	2/19	2/19	2/19					

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 18, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales on the above date at 8:00 a.m. in the State Capitol.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL NO. 632: Rep. Ralph Eudaily, District #60, sponsor, said he was a retired educator after 40 years of service and had great empathy for the retired teachers. They have had one increase since 1977 and are behind the PERS. The retired teachers think it is about their turn. There have been cost of living adjustments for other retirement boards such as the highway patrolmen, game wardens, policemen and firemen, etc. A bill was introduced in 1981 for an automatic increase which did not pass; again in 1983 it was introduced but it never got out of the committee. He said there are 5,000 retired teachers having a hard time. This is a bill that is a modest request and is designed to help those who need it the most. Those who get the most in benefits will get the least of the increase. Those between $500/$1000 per month will get $1 for each year of creditable service and those receiving under $500 per month will receive $1.50 per year of creditable service. Of those retiring before July 1, 1971 he is entitled to a minimum monthly benefit if he was 60 years of age and had completed 30 years of service. The increase will be .179% on the employers and the areas with the greatest concentration of teachers will pay the most.

PROPONENTS: Gladys Johnson, retired teacher from Great Falls, read her prepared testimony, Exhibit #1, and said that the cost of HB 632 may be a question. She urged passage of HB 632.

Bob Johnson, Administrator of the Teachers' Retirement System, said that the teachers' board voted unanimously to support this bill.

Tom Ryan, member and Chairman of the Teachers' Retirement Board, said he supported the bill and hoped the Committee would pass it out with a favorable vote.

Ed Sheehy, national officer of the National Association of Retired Federal Employees, said they would not be affected by this bill but recommended and supported the need for retirement adjustments.

Charles B. Johnson, member of the Legislative Committee of the Montana State Retired Teachers' Association, said it was a fair bill and recommended its passage.

There being no further questions, Rep. Harrington closed without further comment.

CONSIDERATION OF HOUSE BILL NO. 713: Rep. Norm Wallin, District #78, said this bill was brought about because of an incident in Gallatin County in 1971 concerning a house that was left to burn because it was not in a fire district. Lawsuits were brought against the fire department of which one is still pending. This bill would make them the same as a physician or surgeon under the good samaritan law.

PROPONENTS: There were no proponents.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 713: Rep. Harbin said that the language on page 1, lines 14 and 15 extends the good samaritan law to volunteer firefighters in answer to a question Rep. Cody asked concerning (3) on page 2.

There being no further questions, Rep. Wallin closed without further comment.

CONSIDERATION OF HOUSE BILL NO. 705: Rep. Dennis Rehberg, District #88, sponsor, said this bill addresses some problems in the laws relating to exchange of state lands. He personally had had some problems with exchange of state lands but he also said the department of state lands is doing a good job. He said that the appraisal of lands should be made available to the public. He was the lessee in a land exchange and was told he had to go to Helena to view the appraisal or contact the other persons involved in the exchange. This problem has to do with the copyright of the appraiser. Another problem is notification of a proposed exchange. In his case it was one and one-half years before they received notice. They had had the lease since 1930 and thought they should have been notified. He also said the department of state lands is satisfied with the language in the bill. Sections 3 and 4 are taken out of the sale provisions of state lands.

PROPONENTS: John North, appeared on behalf of Dennis Hemmer, Commissioner of State Lands, said they support passage of the bill. He also submitted prepared testimony of Mr. Hemmer, Exhibit #3 attached. They do notify lessees of proposed exchanges but not by certified mail.

There being no further proponents and no opponents, the hearing was open to questions from the Committee.

DISCUSSION OF HOUSE BILL NO. 705: In answer to a question from Rep. Jenkins, Rep. Rehberg said the State does not want the improvements. The arbitration would be between the lessee and the third person trying to trade into the land. The lessee has to go to the State to put the improvements on the

DISPOSITION OF HOUSE BILL NO. 423: Rep. Harbin moved ADOPTION OF THE AMENDMENTS, seconded by Rep. Jenkins. The motion CARRIED WITH Reps. Fritz, Pistoria and O'Connell voting "no".

Rep. Cody then moved that HB 423 DO PASS AS AMENDED, seconded by Rep. Garcia. Motion CARRIED with Reps. Fritz, Phillips, Pistoria, O'Connell and Sales voting "no".

DISPOSITION OF HOUSE BILL NO. 702: Rep. O'Connell moved that HB 702 DO PASS, seconded by Rep. Peterson. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 705: Rep. Peterson moved that HB 705 DO PASS, seconded by Rep. Campbell. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 713: Rep. Harbin moved that HB 713 DO PASS, seconded by Rep. Smith. Motion CARRIED with Rep. Jenkins voting "no".

DISPOSITION OF HOUSE BILL NO. 709: Rep. Harbin moved that HB 709 DO NOT PASS, seconded by Rep. Smith. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 632: Rep. O'Connell moved that HB 632 DO PASS, seconded by Rep. Moore. Rep. Phillips asked the Committee members to remember that this would be an automatic mill levy increase on the people back home. He said that the ones receiving $1,000 per month don't need this. There was some discussion about amending Sections 1 and 2 out of the bill. Rep. Harbin, however, said that those two sections would not cost as much as Section 3. Lois Menzies also stated that the active teachers cannot pay for benefits that they will never receive. Motion CARRIED with Reps. Phillips, Compton, Sales, Smith, Jenkins, Garcia, Holliday and Cody voting "no". The vote was 10-8.

There being no further business, the Committee adjourned at 9:40 a.m.

WALTER R. SALES, Chairman

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STANDING COMMITTEE REPORT

February 19 85
19

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 713

First White
reading copy (color)

INCLUDE VOLUNTEER FIREFIGHTERS IN GOOD SAMARITAN LAW LIMITING LIABILITY

Respectfully report as follows: That HOUSE Bill No. 713

DO PASS

Walter R. Sales, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

--BILL NO--	--REFER DATE--	--HEARING DATE--	--CONSIDERATION DATES--	--COMMITTEE ACTION--	--REREFERRED TO COMM--	DATE OUT
HB0681	2/15	3/15		CONCUR AS AMENDED		3/19
BROWN, JAN			ALLOW RELEASE OF CONFIDENTIAL HEALTH INFORMATION TO MEDIA & LAW ENFORCEMENT			
HB0700	2/22	3/15	3/20 3/26	CONCUR AS AMENDED		3/28
MERCER, JOHN A.			REGULATE PLEA BARGAINS; REQUIRE GOOD CAUSE BE SHOWN FOR DISMISSAL			
HB0706	2/22	3/15		CONCUR AS AMENDED		3/15
MERCER, JOHN A.			CLARIFY THE ARSON LAW			
HB0712	3/04	3/18		TABLED		3/20
MILLER, RON			CREATING LIEN FOR FERTILIZER AND CHEMICAL APPLICATORS			
HB0713	2/22	3/19		CONCUR		3/19
WALLIN, NORM			INCLUDE VOLUNTEER FIREFIGHTERS IN GOOD SAMARITAN LAW LIMITING LIABILITY			
HB0714	3/05	3/19		CONCUR		3/23
SPAETH, GARY			CLARIFY DEFINITION OF "CLAIM" UNDER MONTANA'S TORT CLAIMS LAW			
HB0717	3/04	3/11		CONCUR AS AMENDED		3/26
WALDRON, STEVE			AWARD JOINT CUSTODY, ONLY WHEN BOTH PARENTS REQUEST			
HB0722	3/04	3/21		ADVERSE REPORT		3/23
NISBET, GERALD D.	(JERRY)		IMMUNITY OF TELEVISION BROADCASTER OR CABLECASTER FROM LIBEL			
HB0726	3/04	3/11		ADVERSE REPORT		3/13
GOULD, R. BUDD			PROBATIONARY LICENSE; 1ST REFUSAL TO TAKE BREATH TEST; PENALTY FOR VIOLATION			
HB0760	3/05	3/26	3/22--Tabled	CONCUR		3/26
NATHE, DENNIS G.			DISSOLUTION DECREE MAY NOT BE ENTERED UNTIL 90 DAYS AFTER FILING AND SERVICE			
HB0778	3/06	3/18		CONCUR AS AMENDED		3/28
SPAETH, GARY			REVISE ATTORNEY FEE PROVISIONS OF WORKERS' COMPENSATION ACT			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 19, 1985

The fifty-second meeting of the Senate Judiciary Committee was called to order at 10:07 a.m. on March 19, 1985, by Chairman Joe Mazurek in Rooms 413-415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 613: Representative Tom Hannah, sponsor of HB 613, testified this bill was caused by a recent supreme court decision that took the balanced budget amendment off the November ballot. The timing of that event concerned him. He feels the legislature should address that so we can deal with the initiative process in a timely manner. This bill says any ruling needs to happen within a certain timeframe. or after the election. It created real havoc because ballots had to be reprinted and absentee ballots were late. The bill deals with just the certification of printing.

PROPONENTS: Larry Akey, Chief Deputy to the Secretary of State, testified this bill was requested by his office. This gives local election officers a green light to proceed with the election process at the time the ballot is certified. What we are trying to do is give the local election officers a green light to proceed with printing and distribution of voter distribution pamphlets. It does not prohibit anyone from challenging a ballot issue in the courts. It is certified between mid-July and mid-September. It does not prohibit the court from hearing a challenge after ballot certification. What they are asking is that there be some balance of the administration process with the citizens' right to challenge that process in court. Would HB 613 stand up to a constitutional test? What our system of government has is a system of checks and balances. The check the court has on the legislature is to declare laws unconstitutional. The check the legislature has is declaring jurisdictional limits. Mark Mackin, on behalf of the Citizens Legislative Coalition, testified this bill would require them to bring any challenges within a timely manner.

OPPONENTS: Robert Anderson, lobbyist from Montana Common Cause, presented written testimony in opposition to the bill (Exhibit 1). Don Judge, representing Montana State AFL-CIO, opposed the bill because it is improper to limit the court to applying improper remedies. He had a question about the way the bill was drafted. What if a ballot issue is an issue that is not clear to the voters? There has been a certification

of Natural Resources and Conservation the right to deny pumping privileges on the river, but they have too many pumpers there now. They need this to keep some security and peace there. Ted Doney, representing the Montana Water Development Association, supported the bill. Why is the Milk River the most important river to be adjudicated? It is the most hotly contested river in the state on water rights. Parts are adjudicated, but the entire river needs to be. The water marketing committee recommended the Missouri River Basin have the top priority, and this is part of that basin.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Galt addressed Representative Schye and stated apparently the Milk River has never been adjudicated. He asked him to clarify if it must be adjudicated before they get the water marshals. Representative Schye stated the original intent was to try to change the law to say they didn't have to have the adjudication before they got the marshals. Senator Galt stated a bill passed the Senate which would change the dates. Even if we pass this legislation, you are changing the date on Section 85-2-702, MCA, so you would still be pushed two years or six months down the road. Representative Schye responded right now Milk River is not even on the schedule. They realize it will not take place this summer or even next summer, but something has to be done. Senator Galt asked what a temporary preliminary decree was. Mr. Doney replied it is a concoction of Judge Lessley's. He wants a decree to come out that eliminates the Indian water rights and the federal water rights. This temporary decree adjudicates all of the water rights except the Indian and federal rights and then you come out with a preliminary decree when you have those. Senator Pinsoneault asked if this bill had Judge Lessley's blessings. Representative Schye responded yes. Senator Mazurek asked why they proposed this in the form of a bill rather than a resolution. Mr. Doney replied a resolution could have done it, but it is not binding on the water courts. This bill gives them some legal direction in this situation. He didn't oppose this concept. Senator Mazurek asked if this were the first statute where we made reference to the temporary preliminary decree. Mr. Doney replied yes, although the water marketing committee bill also refers to it.

CLOSING STATEMENT: Representative Schye stated this is an important bill to those people that live along that river. We need to get this process done as fast as we can.

Hearing on HB 846 was closed.

CONSIDERATION OF HB 713: Representative Norm Wallin, sponsor of HB 713, testified volunteer fire departments need to protect themselves. He

testified this bill arose out of a situation where a volunteer fire department responded to a call and found out the home was not owned by a member of the district. They reeled in their hoses and let the home burn in order to protect themselves. These people fighting the fires are volunteers and they don't get paid. The agreement is they only fight those fires for members who belong.

PROPONENTS: Lyle Nagel, representing the Montana State Volunteer Firemen's Association, testified a lot of firemen wear two hats. They are also emergency medical personnel. If they respond as EMTs, they are covered, but if they respond as a volunteer fireman, they are not. They support this bill (see witness sheet attached as Exhibit 2).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: None.

Hearing on HB 713 was closed.

ACTION ON HB 713: Senator Brown moved HB 713 be recommended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HB 517: Representative Stella Jean Hansen, sponsor of HB 517, testified this is a simple bill that allows for a charge in addition to a payment a payor makes when they pay a support payment. What that does is just cover the costs of the handling fee. They ask that it be paid in addition to the payment so it does not come out of the money the person gets. There are many counties who hire someone full time to handle these support payments. It does cost time and money.

PROPONENTS: Clara Gilreath, Lewis and Clark County Clerk of Court, testified she is in favor of the bill, but $2 is not enough. In her county, a real conservative estimate of costs for handling this is $20,000 a year. If they got $2 a payment, they would get back $12,000. If they received $3 per payment, it would get them back $18,000, which would be closer to the actual expenses. She felt $3 would be a better figure than $2. Gordon Morris, representing the Montana Association of Counties, testified these are administrative duties performed by the clerk of court on a routine basis. He conducted a survey to determine how many child support payments are processed each month by the counties. The results of his survey are attached as Exhibit 3. He does not think it is unreasonable to suppose the non-custodial parent could be assessed the processing costs. It was not intended the property tax would continue to subsidize the distribution of child support payments. The

STANDING COMMITTEE REPORT

March 19 19 35

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 713

third reading copy (blue color)

(Senator Blaylock)

INCLUDE VOLUNTEER FIREFIGHTERS IN GOOD SAMARITAL LAW LIMITING LIABILITY

Respectfully report as follows: That HOUSE BILL No. 713

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Joe Mazurek Chairman.

HOUSE BILL NO. 713

INTRODUCED BY WALLIN, ASAY, GILBERT, RANEY, KOEHNKE, ERNST, PISTORIA, BRANDEWIE, SCHULTZ, MCCORMICK, MERCER, HARBIN, REAM, BACHINI, O'HARA, NATHE, PETERSON, HAYNE, KELLER, MARKS, JONES, ELLISON, SANDS, PATTERSON, ELLERD

A BILL FOR AN ACT ENTITLED: "AN ACT TO SPECIFICALLY INCLUDE VOLUNTEER FIREFIGHTERS AND OFFICERS OF A NONPROFIT VOLUNTEER FIRE COMPANY IN THE "GOOD SAMARITAN" LIMITS ON LIABILITY; AMENDING SECTION 27-1-714, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-714, MCA, is amended to read:

"27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1) Any person licensed as a physician and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company, or any other person who in good faith renders emergency care or assistance without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care or assistance.

(2) Subsection (1) includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as any reimbursement received for such volunteer services does not exceed 25% of his gross annual income.

(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, such refusal does not constitute gross negligence or a willful or wanton act or omission."

-End-